

STATE OF MICHIGAN  
COURT OF APPEALS

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

MICHAEL RAY VILICANA, JR.

Defendant-Appellant.

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UNPUBLISHED

September 20, 2005

No. 254046

Allegan Circuit Court

LC No. 02-12831-FC

Before: Smolenski, P.J., and Murphy and Davis, JJ.

PER CURIAM.

Defendant appeals as of right from his jury conviction and sentence for three counts of first-degree criminal sexual conduct, MCL 750.520b(1)(b)(i), and one count of second-degree criminal sexual conduct, MCL 750.520c(1)(b)(i). We affirm.

Before trial, the trial court granted plaintiff's motion in limine to exclude evidence of an alleged incident that occurred eighteen months before complainant made the allegations against defendant, in which complainant purportedly told classmates she was pregnant and that her boyfriend was twenty years old. The trial court noted that the school counselor and the Family Independence Agency had determined this to be a "rumor" and that complainant had denied making the statement. The trial court concluded the evidence that complainant had made such a statement was unreliable, was not probative, and was "probably irrelevant." Defendant argues that this ruling was an abuse of the trial court's discretion, and violated his right to confront the witnesses against him. We disagree.

This Court reviews a trial court's evidentiary rulings and limitation of cross-examination for an abuse of discretion. *People v Sabin (After Remand)*, 463 Mich 43, 60; 614 NW2d 888 (2000). An abuse of discretion will only be found if an unprejudiced person would say there was no justification or excuse for the ruling based on the facts presented. *People v Ullah*, 216 Mich App 669, 673; 550 NW2d 568 (1996). To the extent that such rulings implicate a defendant's right to confrontation, this Court's review is de novo. *People v Beasley*, 239 Mich App 548, 557; 609 NW2d 581 (2000).

The determination of the proper scope of cross-examination is within the discretion of the trial court. *People v Williams*, 191 Mich App 269, 273; 477 NW2d 877 (1991). While the right of cross-examination is a primary interest secured by the Confrontation Clause, neither the Confrontation Clause nor due process confers on a defendant an unlimited right to cross-examine

witnesses on any subject. *People v Hackett*, 421 Mich 338, 347; 365 NW2d 120 (1984); *People v Adamski*, 198 Mich App 133, 138; 497 NW2d 546 (1993). Rather, the Confrontation Clause “guarantees to defendant a reasonable opportunity to test the truth of a witness’ testimony.” *Hackett, supra* at 347, citing *Alford v United States*, 282 US 687; 51 S Ct 218; 75 L Ed 624 (1931). “[T]rial judges retain wide latitude insofar as the Confrontation Clause is concerned to impose reasonable limits on such cross-examination based on concerns about, among other things, harassment, prejudice, confusion of the issues, the witness’ safety, or interrogation that is repetitive or only marginally relevant.” *Adamski, supra* at 138, quoting *Delaware v Van Arsdall*, 475 US 673, 679; 106 S Ct 1431; 89 L Ed 2d 674 (1986). A trial court may limit cross-examination as to collateral matters bearing only on general credibility. *Hackett, supra* at 348.

Evidence is relevant if it has any tendency to make the existence of a fact, which is of consequence to the action more probable or less probable than it would be without the evidence. MRE 401; *People v Crawford*, 458 Mich 376, 388-389; 582 NW2d 785 (1998). Thus, “evidence is admissible if it is helpful in throwing light on any material point.” *People v Aldrich*, 246 Mich App 101, 114; 631 NW2d 67 (2001). Testimony that complainant previously lied to classmates about being pregnant was relevant only to the extent that it undermined the credibility of her statements against defendant. However, the statements against defendant were made approximately eighteen months after the purported pregnancy statement and approximately twenty-two months before she testified against defendant at trial. Hence, the only manner in which such a statement could be considered relevant would be to show that, because complainant previously lied to classmates about being pregnant, she was more likely to be lying about the present allegations; a statement about being pregnant is not substantively material to the allegations against defendant. Therefore, the excluded testimony was of a collateral matter that might bear on complainant’s general credibility, but did not bear directly on the veracity of her specific allegations in this case; consequently, it was within the trial court’s discretion to disallow it. *Hackett, supra* at 348.

Defendant was permitted to explore complainant’s credibility as to the specific allegations against him. He presented two witnesses who testified that complainant told them she was lying about her claims that defendant sexually assaulted her. Defendant also presented the testimony of his parents, who each stated complainant told them that she had done something she should not have done, implying she had lied about the sexual abuse. Therefore, defendant was provided with a reasonable opportunity to test the truth of complainant’s testimony and the trial court’s order denying him the opportunity to inquire into her purported statement to classmates about being pregnant did not deprive him of his right to confront the witnesses against him.

Affirmed.

/s/ Michael R. Smolenski

/s/ William B. Murphy

/s/ Alton T. Davis